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VIA COURIER

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of Permitted Ex Parte Contacts, CS Dkt No. 00-2
(Implementation of the Satellite Home Viewer Act of 1999)

Dear Ms. Salas:

The purpose of this letter is to advise the Commission of a permitted *ex parte* contact in the above-referenced proceeding. On March 16, 2000, John D. Seiver and Christin S. McMeley, of Cole Raywid & Braverman, LLP, on behalf of TV Guide, Inc., Derk Tenzythoff of UVTV (an affiliate of TV Guide, Inc.), Scott Bogie of Superstar/Netlink Group LLC (an affiliate of TV Guide, Inc.), Margaret L. Tobey of Morrison & Foerster, on behalf of the Satellite Broadcasting and Communications Association, Andy Paul of the SBICA, and Abraham A. Issa of General Instrument Corporation met jointly with the following representatives of the Cable Services Bureau: William Johnson, Eloise Gore, Ronald Parver, Jonathan Levy, Treg Tremont, Steven Broeckaert, Michael Lance, Deborah Klein and Ben Golant.

At this meeting, the attendees discussed the issues raised in TV Guide's and the SBICA's comments in the referenced proceeding. These issues include: exempting the C-band industry from any program exclusivity rules that may be adopted in the referenced proceeding; the

Magalie Roman Salas
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technical reasons program exclusivity rules could not be implemented for C-Band superstations and network stations; the manners in which C-band services are authorized and deauthorized; and the declining nature of the C-band industry.

The enclosed outline was discussed at the meeting and a copy left with each of the above-mentioned Commission staff members.

Please contact the undersigned if you have any questions about this matter.

Respectfully yours,

A handwritten signature in dark ink, appearing to read "Christin S. McMeley", is written over a faint, larger signature that is partially obscured.

Christin S. McMeley

Enclosure

Cc (w/o enc.): William Johnson
Eloise Gore
Ronald Parver
Jonathan Levy
Treg Tremont
Steven Broeckaert
Michael Lance
Deborah Klein
Ben Golant

Discussion of

**THE APPLICATION OF
EXCLUSIVITY RULES
TO
THE C-BAND INDUSTRY**

Federal Communications Commission
and
TV Guide, Inc. Affiliates
[UVTV and Superstar Netlink Group]
Satellite Broadcasting and Communication Association
General Instrument Access Control Center

February 16, 2000



PARTICIPATING IN THE DISCUSSION:

TV Guide, Inc. (UVTV and Superstar Netlink Group)

- **UVTV** markets and distributes superstations WGN, WPIX, KTLA, KWGN and the Denver Networks to all MVPDS
- **Superstar Netlink Group** is the nation's largest distributor of satellite broadcast and cable network programming to the C-band market (approximately 1 million customers)

Satellite Broadcasting and Communications Association (SBCA)

The national trade association representing every participant involved in the delivery of television programming to consumer households via direct-to-home reception systems - including the C-band industry.

Access Control Center (ACC)

Not-for-profit subsidiary of General Instrument, which serves as a clearinghouse for authorization (and deauthorization) requests for the C-band industry.



CONGRESS DID NOT INTEND TO INCLUDE THE C-BAND INDUSTRY IN THE EXCLUSIVITY RULES

In recognition of the small size and the declining nature of the C-band industry, Congress exempted C-band distributors from any program exclusivity rules.

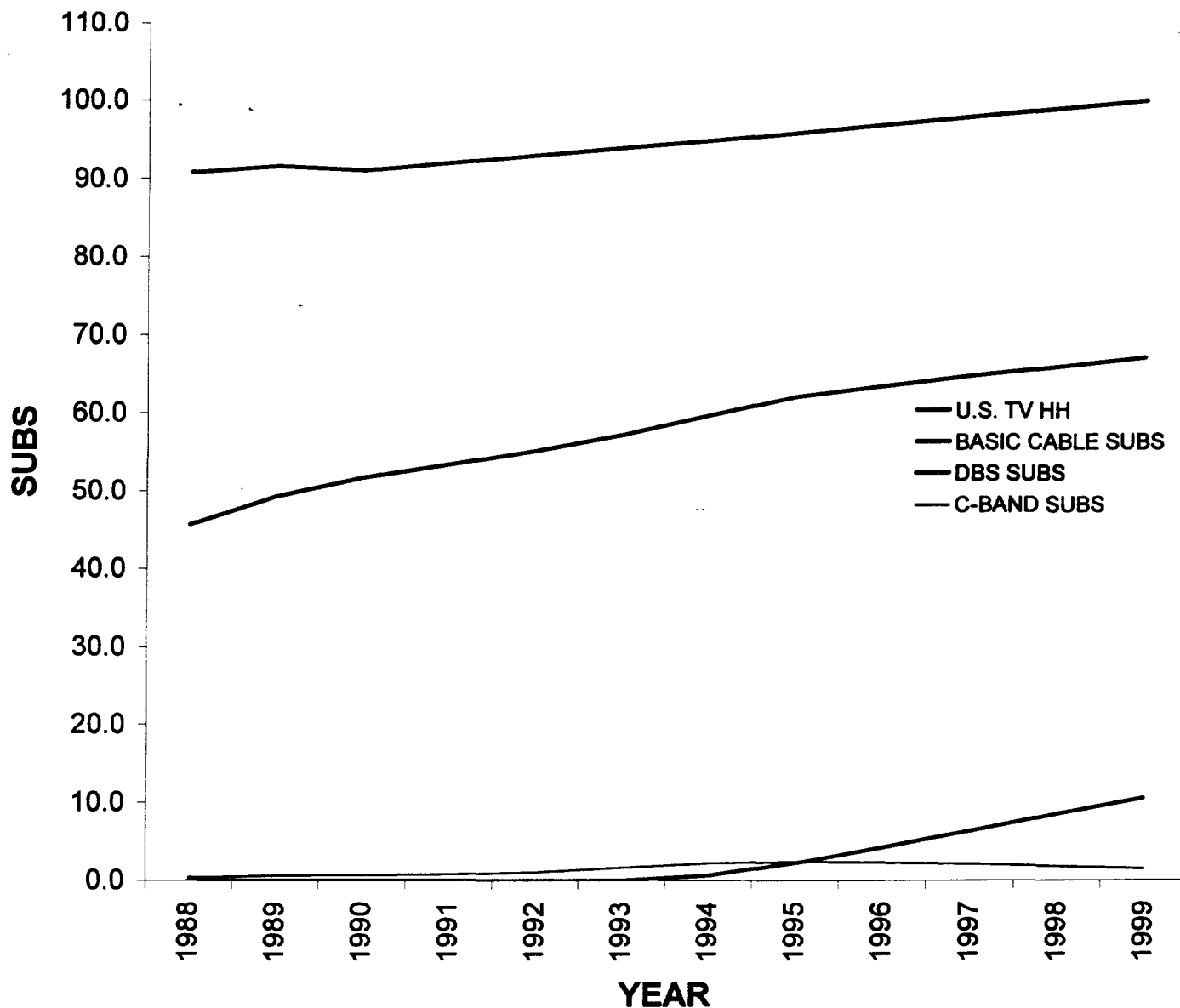
1. Section 1005 (a) (2) of SHVIA permits continued carriage of network stations by exempting the C-band industry from the definition of "unserved household". The "unserved household" restriction functions in much the same manner as network non-duplication, and C-band is exempt.
2. Senators Hatch and Stevens confirmed congressional intent in their colloquy just prior to bill passage.



IS SATELLITE A TRUE COMPETITOR TO CABLE?

HISTORICAL DATA TREND (YEAR-END FIGURES IN MILLIONS)

	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
BASIC CABLE SUBS	45.69	49.31	51.74	53.40	55.20	57.20	59.70	62.10	63.50	64.80	65.90	67.10
DBS SUBS	-	-	-	-	-	-	0.58	2.22	4.26	6.35	8.59	10.6
C-BAND SUBS	0.40	0.64	0.71	0.77	1.03	1.63	2.20	2.40	2.30	2.12	1.80	1.65



IT WOULD NOT BE TECHNICALLY FEASIBLE FOR C-BAND TO COMPLY WITH ANY PROGRAM EXCLUSIVITY RULES

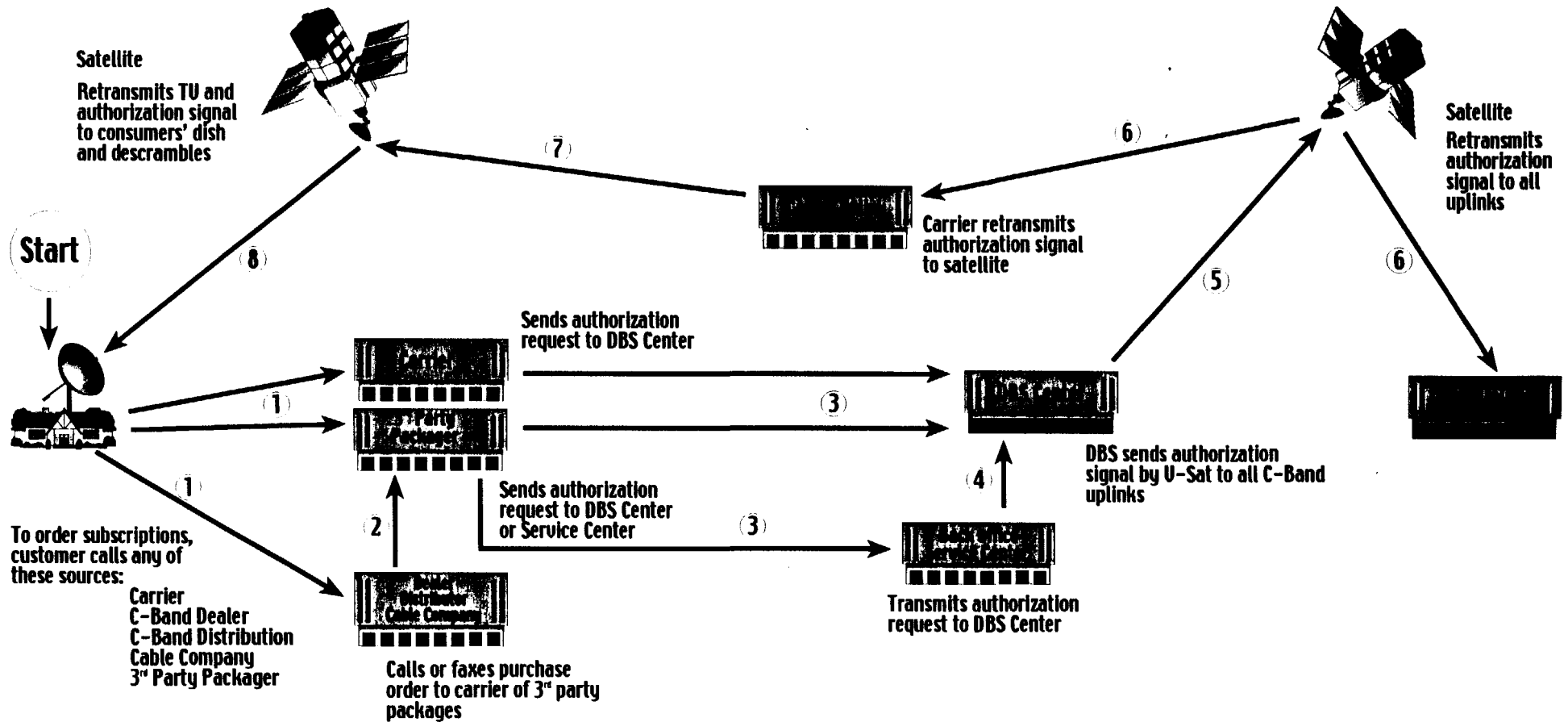
Exclusivity compliance requires deauthorization and re-authorization on all satellite delivered services for durations as brief as 30 minutes.

Cable has a simple authorization process, which allows for direct, immediate and uniform action at the system (local) level.

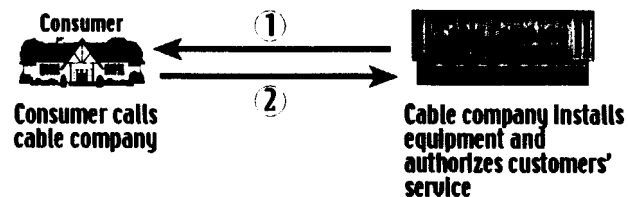
C-band authorization process can involve a myriad of dealers, distributors and other parties in all 50 states, 4 time zones and includes all decoders nationwide.



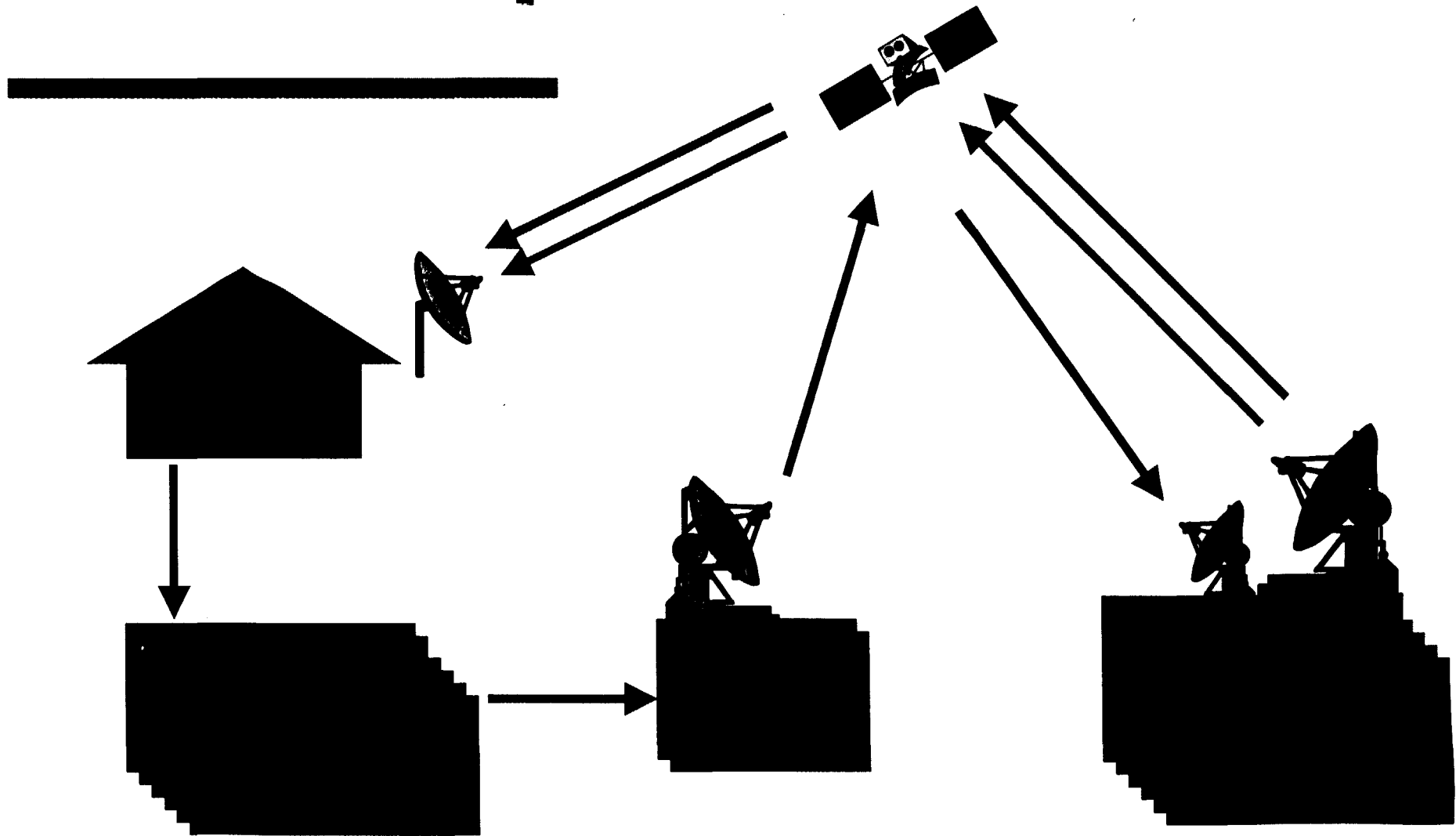
C-Band Customer Superstation Authorization "Unlike" Cable



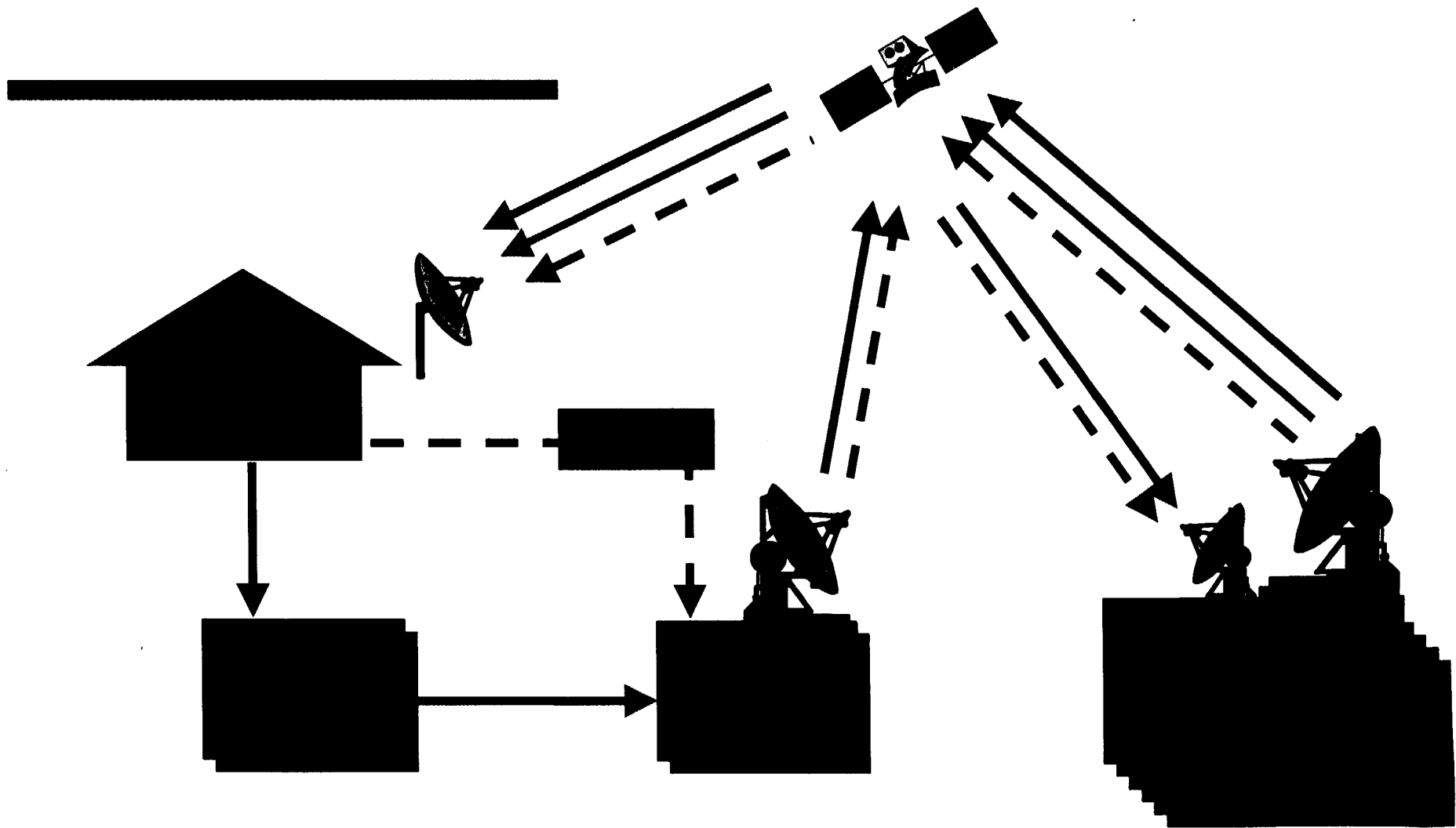
Cable Customer Authorization "Unlike" C-Band



Subscription Authorization

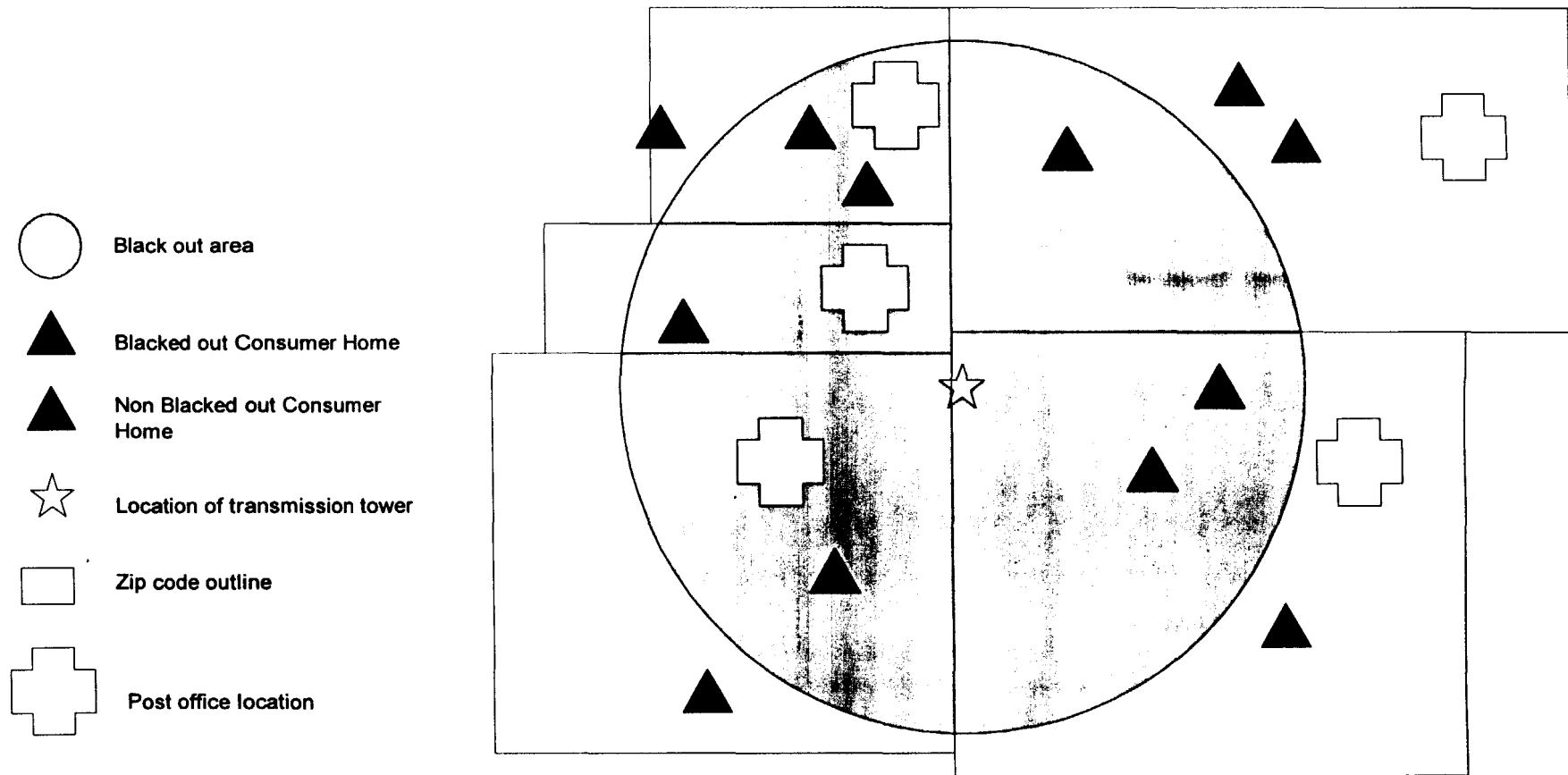


Instant PPV Authorization



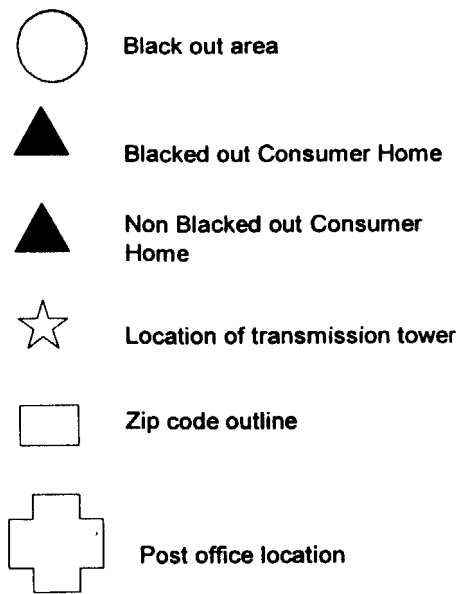






Blackouts

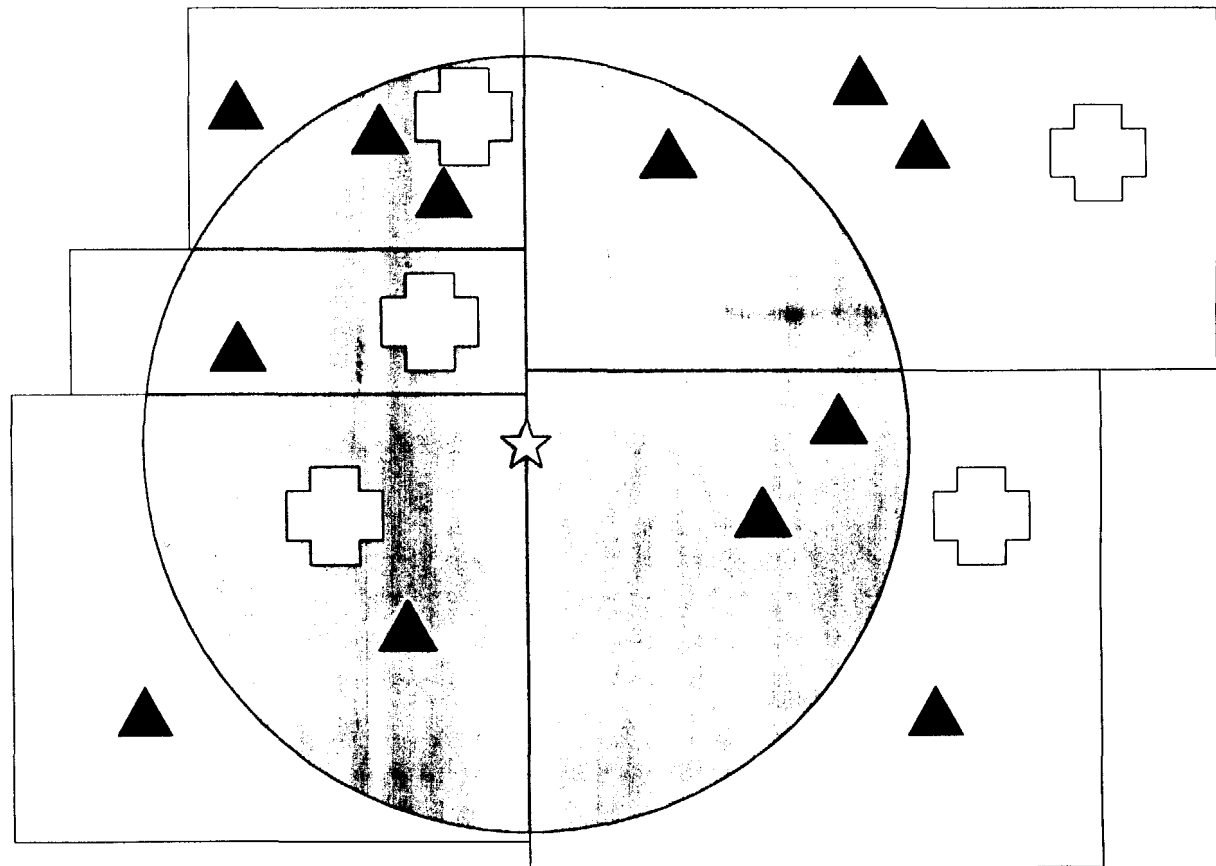
Desired Scenario



Blackouts

Actual Result

- 
-  Black out area
 -  Blacked out Consumer Home
 -  Non Blacked out Consumer Home
 -  Location of transmission tower
 -  Zip code outline
 -  Post office location



IT WOULD NOT BE ECONOMICALLY FEASIBLE FOR C-BAND TO COMPLY WITH ANY EXCLUSIVITY RULES

Administration

Cable serves a geographically limited area (within a single DMA) within which a limited number of broadcast stations provide over-the-air transmissions and can claim exclusive rights.

Satellite distributors serve the entire United States and provide service in all 211 DMAs.

Therefore, while any particular cable system would have to comply with a few (usually less than 8) broadcast stations' exclusivity demands, any particular satellite distributor would have to potentially comply with exclusivity demands of all U.S. broadcast stations on a program-by-program basis for the entire C-band subscriber base.

Technology

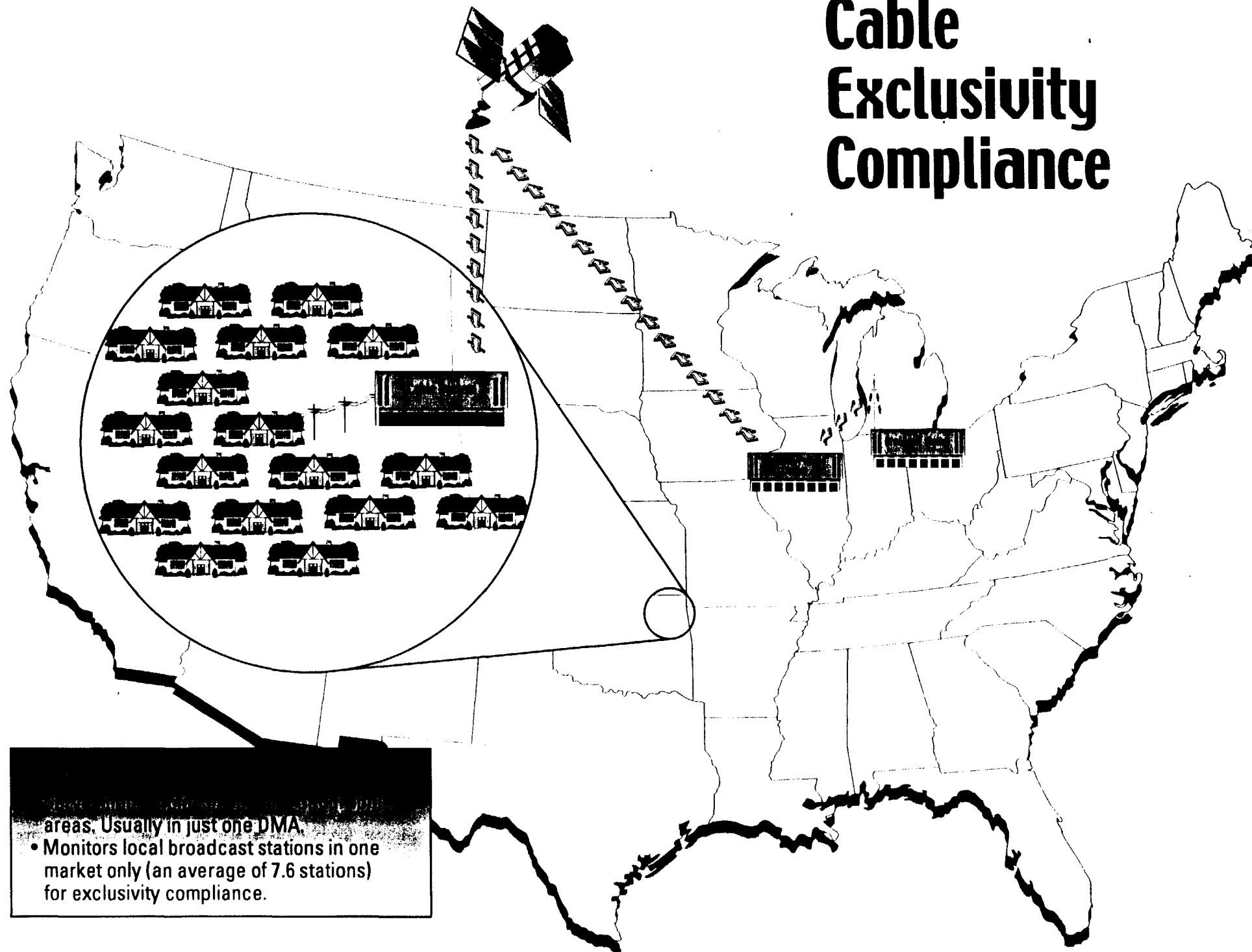
Cable companies comply with local broadcast station exclusivity demands by simply blacking-out (and often covering) exclusivity-impacted programming for its entire customer base. Cable systems outside exclusivity zones simply ignore any broadcaster exclusivity demands.

C-band satellite distributors would have to accept, analyze and monitor every exclusivity demand from every broadcaster in the United States.

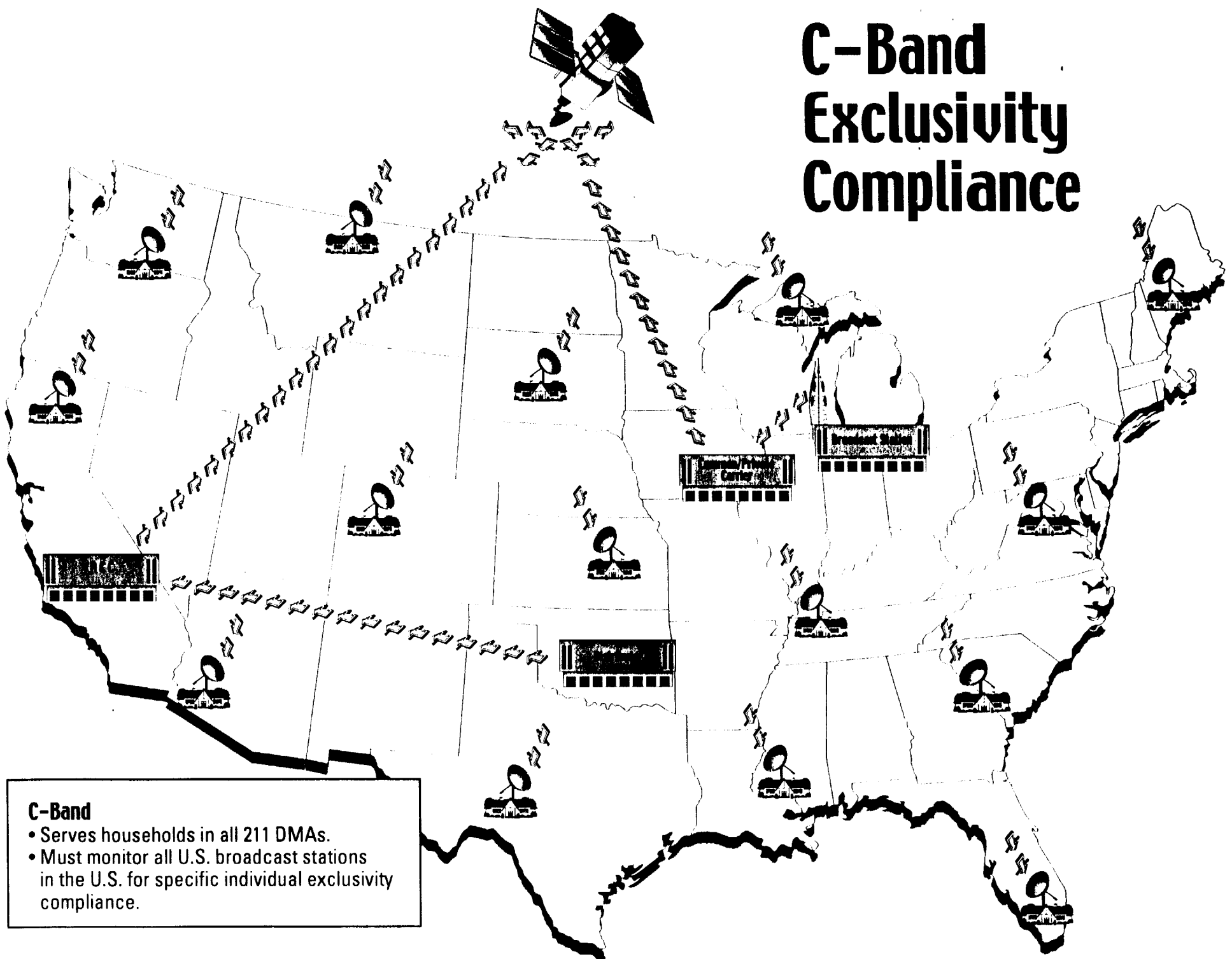
For C-band, technology capable of accurately implementing exclusivity rules would have to be developed.



Cable Exclusivity Compliance



C-Band Exclusivity Compliance



C-Band

- Serves households in all 211 DMAs.
- Must monitor all U.S. broadcast stations in the U.S. for specific individual exclusivity compliance.

THE SYNDEX NOTIFICATION PROCESS AS IT APPLIES TO CABLE IS UN-WORKABLE FOR C-BAND

To be valid, a syndex demand must include:

- Dated and signed contract between station and syndicator
- Exact syndex language
- Specific syndex dates

Also, the syndex notice must be provided to the cable system within 60 days of the signed station/syndicator contract.

UVTV has monitored syndex demands since reimposition of the rules in 1990. UVTV has more than 12,000 active notices logged and understands the complexities involved with compliance. 127 syndicated programs and 42 movie packages are currently impacted.

For example:

40% of syndex notices received by UVTV for cable compliance monitoring did not contain any contract information - and, therefore required immediate follow-up.

10% include no exclusivity dates

1% demand syndex protection, but the contract grants only "market exclusivity"



CONCLUSION

It is fair, and intended by Congress, to exempt the C-band industry from exclusivity rules.

- Exempting C-band, the smallest (and declining) participant in the direct-to-home market is what Congress wanted.
- An exemption assures it is treated just like the smallest cable systems in the cable rules, which the FCC has been asked to emulate.
- FCC thereby confirms its previous rulings which notes that exclusivity should not apply to C-band technology as it existed then - and as it exists today virtually without modification.
- C-band dish owners - pioneers in the satellite delivery of television programming - have their favorite programming confirmed and their significant hardware investments protected.

